

No. 2021-6837

**Official Order  
of the  
Texas Commissioner of Workers' Compensation**

**Date:** 05-19-2021

**Subject Considered:**

StarStone National Insurance Company  
P.O. Box 100165  
Columbia, South Carolina 29202-3165

Consent Order  
DWC Enforcement File No. 25825

**General remarks and official action taken:**

This is a consent order with StarStone National Insurance Company (StarStone). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against StarStone.

**Waiver**

StarStone acknowledges that the Texas Labor Code and other applicable laws provide certain rights. StarStone waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

**Findings of Fact**

1. StarStone holds a certificate of authority issued by the Texas Department of Insurance to transact the business of insurance pursuant to TEX. INS. CODE §§ 801.051-801.053 and is licensed to write workers' compensation/employers' liability insurance in Texas.
2. StarStone was not selected to be tiered in the 2007, 2009, 2010, 2012, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments.

Failure to Pay Accrued Impairment Income Benefits Based on a Certifying Doctor Report

3. On [REDACTED], StarStone received a DWC Form-69, *Report of Medical Evaluation* (Form-69), from an injured employee's certifying doctor.
4. The certifying doctor determined that the injured employee reached maximum medical improvement on [REDACTED], with a 15% impairment rating.
5. StarStone was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving Form-69. The deadline to pay benefits was [REDACTED].
6. StarStone issued payment of IIBs on [REDACTED], which was 149 days late.

**Assessment of Sanction**

1. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
2. In assessing the sanction for this case, DWC fully considered the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e):
  - the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
  - the history and extent of previous administrative violations;
  - the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - to the extent reasonable, the economic benefit resulting from the prohibited act; and
  - other matters that justice may require, including, but not limited to:
    - PBO assessments;
    - prompt and earnest actions to prevent future violations;
    - self-report of the violation;
    - the size of the company or practice;
    - the effect of a sanction on the availability of health care; and

- evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
3. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be aggravating: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the penalty necessary to deter future violations; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
  4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act.
  5. StarStone acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and the proposed sanction is appropriate, including the factors DWC considered under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
  6. StarStone acknowledges that, in assessing the sanction, DWC considered the factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### **Conclusions of Law**

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00114, 402.00116, 402.00128, 414.002, and 415.021.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. StarStone has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.
4. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.

5. Pursuant to TEX. LAB. CODE § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
6. Pursuant to TEX. LAB. CODE § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a provision of the Texas Workers' Compensation Act.
7. Pursuant to TEX. LAB. CODE §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
8. Pursuant to TEX. LAB. CODE § 408.121(b), an insurance carrier must pay impairment income benefits not later than the fifth day after the date on which the insurance carrier receives the doctor's report certifying maximum medical improvement.
9. Pursuant to 28 TEX. ADMIN. CODE § 130.8, an insurance carrier must pay all benefits in accordance with the treating doctor's medical evaluation report, as described in 28 TEX. ADMIN. CODE § 130.1 no later than five days after receiving the report when the date of maximum medical improvement is not disputed.
10. StarStone violated TEX. LAB. CODE §§ 409.023 and 415.002(a)(16), (20), and (22) when it failed to timely pay accrued income benefits in accordance with the doctor's medical evaluation report no later than five days after receiving the report.

### Order

It is ordered that StarStone National Insurance Company must pay an administrative penalty of \$13,500 within 30 days from the date of this order. StarStone National Insurance Company must pay the administrative penalty by company check, cashier's check, or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.



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Cassie Brown  
Commissioner of Workers' Compensation

Approved Form and Content:



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Tyrus Housh  
Staff Attorney, Enforcement  
Compliance and Investigations  
Division of Workers' Compensation

**Affidavit**

**STATE OF** Florida

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**COUNTY OF** Pinellas

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Before me, the undersigned authority, personally appeared David J Calandro,  
who being by me duly sworn, deposed as follows:

"My name is David J Calandro. I am of sound mind, capable of making this  
statement, and have personal knowledge of these facts which are true and correct.

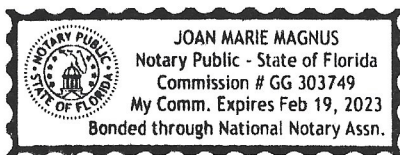
I hold the office of Regional Claim Manager and am the authorized representative of  
StarStone National Insurance Company. I am duly authorized by the organization to  
execute this statement.

StarStone National Insurance Company has knowingly and voluntarily entered into this  
consent order and agrees with and consents to the issuance and service of this consent  
order."

David J Calandro  
Affiant

SWORN TO AND SUBSCRIBED before me on 4/21/2021, 2021.

(NOTARY SEAL)



Joan Marie Magnus  
Signature of Notary Public

Joan Marie Magnus  
Printed Name of Notary Public

Feb. 19, 2023  
Commission Expiration

Confidential Information Redacted  
Texas Labor Code §§402.083 and 402.092